

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
VS.)	Cause No. 3:22-cv-109
)	
\$139,054.00 in U.S. Currency)	
)	
Defendant.)	

VERIFIED COMPLAINT IN REM

Plaintiff, United States of America, by its attorneys, Clifford D. Johnson, United States Attorney for the Northern District of Indiana, and Kathleen Trzyna, Assistant United States Attorney, brings this complaint and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure.

NATURE OF THE ACTION

1. This is an action to forfeit and condemn to the use and benefit of the United States of America, pursuant to 21 U.S.C. § 881(a)(6), U.S. Currency in the amount \$139,054.00 (hereinafter referred to as “defendant property”), for violations of 21 U.S.C. § 841.

DEFENDANT IN REM

2. The defendant property was seized from Toby K. Jones on or about September 14, 2020, in Elkhart, Indiana. Defendant property is in the custody of the United States Marshal's Service in South Bend, Indiana.

JURISDICTION AND VENUE

3. Plaintiff brings this action *in rem* in its own right to forfeit and condemn the defendant property. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355(a).

4. This Court has *in rem* jurisdiction over the defendant property under 28 U.S.C. § 1355(b).

5. Venue is proper in this district pursuant to 28 U.S.C. § 1355(b)(1), because the acts or omissions giving rise to the forfeiture occurred in this district and also pursuant to 28 U.S.C. § 1395(b), because the defendant property was found within this district.

BASIS FOR FORFEITURE

6. The defendant property is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6), because it constitutes money furnished or intended to be furnished in exchange for a controlled substance in violation of the Controlled Substances Act.

FACTS

7. On September 14, 2020, law enforcement officers executed a search warrant upon a residence in Elkhart, Indiana. During the execution of the search warrant, officers seized assorted firearms, a vehicle, and \$139,054 in U.S. currency. Upon execution of the search warrant, Toby Jones was arrested and charged in the Elkhart Circuit Court, cause number 20C01-2009-F4-47.

8. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) subsequently federally adopted the criminal case based upon the facts and circumstances of the investigation. On or about November 11, 2020, the U.S. Attorney’s Office for the Northern District of Indiana, South Bend Division, indicted Toby Jones in case number 3:20-cr-00109. The charges against Jones included possession of a firearm by a felon in violation of 18 U.S.C. § 922(g)(1), possession of a firearm during and in relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A), and possession with the intent to distribute a Schedule 1 controlled substance in violation of 21 U.S.C. 841(a)(1).

9. Pursuant to a written plea agreement, in US v. Jones, Jones pleaded guilty to possession of a firearm by a felon and possessing a firearm during and in relation to a drug trafficking crime. Jones further agreed to the forfeiture of any and all firearms and ammunition

and the \$139,054 in U.S. currency involved in the commission of the offenses. Jones admitted that the \$139,054 was the proceeds of illegal drug transactions.

10. All firearms and ammunition were disposed of by orders of the Court.

11. The defendant property was not disposed of through criminal forfeiture following the defendant's plea. Defendant's counsel consented to the disposal of the defendant property through civil forfeiture, and a record was made at the sentencing of the matter that the defendant would not object to the civil forfeiture of the \$139,054.00 as it was proceeds of defendant's illegal drug transactions.

12. On December 21, 2021, a turnover order was granted, allowing the \$139,054 seized to be turned over to the appropriate federal authority, Cause No.: 20D01-2009-MC-2363.

WHEREFORE, the plaintiff requests that the defendant property be forfeited and condemned to the United States of America; the Warrant of Arrest In Rem be issued for defendant property; that the plaintiff be awarded its costs and disbursements in this action; and for such other and further relief as this court deems proper and just.

Respectfully Submitted,

CLIFFORD D. JOHNSON

UNITED STATES ATTORNEY

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VERIFICATION

I, Kyle Lerch, hereby verify and declare under penalty of perjury that I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives; that I have read the foregoing Verified Complaint In Rem and know the contents thereof, and that the matters contained in the Verified Complaint are true to the best of my knowledge.

The sources of my knowledge and information are the official files and records of the ATF along with information supplied to me by other law enforcement officers, as well as my investigation of this case.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.



Kyle Lerch
Bureau of Alcohol, Tobacco,
Firearms, and Explosives